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Fair and Unfair Strategies In Public Controversies

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Abstract: Contemporary theory of argumentation offers many insights about the ways in which, in the context of a public controversy, arguers should ideally present their arguments and criticize those of their opponents. We also know that in practice not all works out according to the ideal patterns: numerous kinds of derailments (fallacies) are an object of study for argumentation theorists. But how about the use of unfair *strategies* vis-à-vis one's opponents? What if it is not a matter of occasional derailments but of one party's systematic refusal to take other parties seriously? What if one party continually forgoes any form of critical testing and instead resorts to threats or blackmail? Can this be countered by the tools of reason? Or should one pay one's opponent back in the same coin? To gain some grasp of these issues, we describe a number of strategies used in the public controversy about induced earthquakes in Groningen. We check whether these strategies are *fair,* i.e. *balanced, transparent,* and *tolerant.* We also investigate the effects of the choice for a particular kind of strategy. It appears that, in circumstances, choosing a fair strategy may be detrimental for resolving the controversy and choosing an unfair one beneficial. Following up ideas from social psychology and political science, we formulate some guidelines for the choice of strategies. At the end, we stress the importance – especially for those whose opinions carry little weight – of having a society in which the knowledge and skills needed for assessing the fairness of strategies are widespread.

Key Words: argumentation theory, strategy, fallacy, public controversy, (un)fairness

1. Introduction

Contemporary argumentation studies offer many kinds of insight about how, when confronted with a difference of opinion, one may proceed to convince the other by reasonable arguments. Clearly, practice is sometimes far removed from these ideals of reasonableness. Consequently, the study of fallacies, flaws and irregularities, as well as the ways to react to them merits our attention (Johnson & Blair 1983, van Eemeren & Grootendorst 1992). Especially in dialectical (dialogical) approaches of argumentation, one has studied ways in which a discussant that threatens to be duped by a fallacious move by his interlocutor may deal with the fallacy in a reasonable way. One possibility is to start a metadiscussion in which the discussants themselves investigate whether a move is legitimate and can stay in place or fallacious so that one should take it back (Krabbe 2003). Another is to use rhetorical tactics that may seem but are not really unreasonable as a means to improve the conditions for the reception of appropriate argumentation (Jacobs 1999, 2000, 2002, 2009). Pragma-dialecticians propose a middle course, without the use of (seemingly) fallacious tactics (van Eemeren and Houtlosser 2007; van Eemeren 2010, pp. 252-262).

When, however, we turn to public controversies, each of which provides a context consisting of many speech events (discussions or dialogues) in which the participants' essential

interests are at stake, we find that they tend to be so complex and unruly as to make it almost impossible to sort things out by careful inspection of each separate potentially fallacious move. Sometimes it is not just that every once in a while fallacies are being committed; rather participants are systematically refusing to take the questions, doubts, and problems of other parties seriously. Instead of trying to reach a resolution or compromise, they are continually putting pressure on the other, by the use of threats and moral blackmail. It then seems unfeasible to spot, analyze, and expose every individual fallacy, let alone to discuss each case in a metadialogue: a reason to go for a more global approach, which will allow one to criticize in general terms the behavior of parties in all or in a part of the controversy.

Another reason for preferring a more global approach is given by the interwovenness (typical for public controversies) of on the one hand the search for reasonable resolutions for differences of opinion and on the other hand the search for fair compromises settling conflicts of interest. In this situation it seems less appropriate to concentrate on a particular model of dialogue, for instance a model in which participants focus on reaching a reasonable resolution by means of arguments and criticisms, or contrariwise a model in which they focus on reaching a fair compromise by means of offer and counteroffer. The choice for a more general dialogical perspective that incorporates both persuasion and negotiation, as well as other types of dialogue, seems more appropriate.

In this paper, we therefore do not target separate dialogues or dialogue moves but rather focus on global patterns of behavior that manifest themselves in moves made in the various speech events that together constitute the context of a public controversy. We characterize and evaluate these patterns as strategies and will try and check whether they are conducive to the forms of cooperation needed for fruitful and reasonable ways of arguing and negotiating.

Our question is: What is the best course of action for those participating in a public controversy in order to achieve a satisfactory outcome? Should one take the line of fairness, cooperation, and reason? And should one stick to that line even when other parties invariably adopt an unfair attitude in the debate? Or should one pay the other back in the same coin? To gain an understanding of these matters, we carried out an exploratory conceptual investigation of a number of contributions to a public controversy on gas extraction and induced earthquakes in the province of Groningen (The Netherlands) and, on that basis, established a list of types of strategy. Decisive for including strategies in our list was their potential relevance for our question. A complete analysis of the Groningen controversy has not been our purpose. Neither did we include other public controversies in this study. Yet we do expect that strategies similar to the ones we found will surface also in other controversies. The strategies listed by us will be familiar to newspaper readers and some of them have an obvious connection with well-known fallacies.

We shall first, in Section 2, explain what we mean by a public controversy and how we understand the concept of strategy in such a context. We shall also introduce a number of predicates characterizing kinds of strategy. In Section 3, we illustrate our notion of strategy by pointing out a number of strategies used in the discussions about induced earthquakes. In Section 4, we elucidate our notion of fairness and show how it can be used to evaluate the strategies of Section 3. In Section 5, we discuss in what ways strategies can have intended or unintended effects on the degree of cooperation within the public controversy as a whole. In Section 6, we provisionally answer our question by formulating some strategic guidelines. Finally, in Section 7, we shall draw some conclusions about the value of fairness and cooperation.

2. Controversies and strategies

We see a *public controversy* as a complex phenomenon. First, we see it as a complex of speech events that provides a macro-context or even an interdiscursive or intertextual context for these same speech events (van Eemeren 2010, pp. 17-18).[1] Some parts can be best understood from the point of view of the persuasion dialogue, while others are more easily seen as contributions to a negotiation dialogue, or a dialogue of yet some other type (Walton and Krabbe 1995). A second feature is that a public controversy is usually concerned with a series of connected issues, and not just with one difference of opinion. Third, there are usually more than two parties involved. A public controversy is therefore a polylogue, which can only with difficulty, and perhaps never in a fully adequate way, be reduced to a complex of two-person dialogues (Lewinski and Aakhus 2014). A fourth feature is that a public controversy is most clearly present in the mass media, such as radio, television, and the Internet. When prominent discussants react to one another they mostly also aim to reach the audience. A fifth feature is that a typical public controversy stretches over a considerable period of time, maybe months, or years. Sixth and last, for the participants there is often a lot at stake, for instance their income, their way of life, or their identity. The recent controversy about the extraction of natural gas and induced earthquakes in the province of Groningen (Netherlands) exemplifies our concept of public controversy. It will be the subject of our case study in this paper.

We presume that participants in a public controversy are motivated by the desire to safeguard and to strengthen their own position, but that does not imply that reason has no role to play. When a participant offers arguments for his standpoints or criticizes standpoints of his opponents or proposes components for a compromise, he professes to offer considerations that will bring the parties closer to a resolution or compromise. For his arguments will convince other participants of the correctness of his standpoint only if these participants can see at least some of the adduced reasons as reasonable and subscribe to them.[2] We may also expect that criticisms of the opponent's standpoints will be adapted to what the latter would deem reasonable. And in the same way, fairness will have a role to play in every serious negotiation. In this paper, we therefore consider global patterns of behavior (called "strategies") in a public controversy from this perspective of reasonable discussion and negotiation focusing on resolutions and compromises, being all the same aware of the fact that participants may be motivated, besides by these shared objectives, also by completely different objectives. Thus, we are following van Eemeren and Houtlosser (2002), who suppose that a participant of an argumentative exchange maneuvers strategically between his dialectical purpose of resolving a difference of opinion and his rhetorical purpose of convincing his audience. Moreover, we take a similar approach in the case of negotiation, where participants are motivated by the shared objective of obtaining a fair deal but also by that of obtaining personal advantage.

[1] We speak of an "interdiscursive" or "intertextual" context because the different speech events (broadcasts, newspaper articles, town hall meetings, interviews, consultations, court meetings, etc.), which together constitute a public controversy, usually run across different genres of communicative activity (or types of dialogue) such as persuasion, deliberation, inquiry, and negotiation as well as across various domains of communicative activity such as the legal, the political, the diplomatic and the medical domain (see van Eemeren 2010, pp. 17-18,143; see also Wodak 2011, pp. 39-40).

[2] Walton proposes to approach persuasion in mass media starting from the "Hypothesis on the Cognitive Component of Persuasion (HCCP): When respondents find an argument persuasive, it is generally because they think that the argument is a reasonable one based on premises that they are committed to" (2007: 86). Van Eemeren, Garssen, and Meuffels (2012) found empirical evidence supporting their hypotheses that ordinary arguers are to some extent aware of their dialectical obligations, assume that their interlocutors are committed to the same kind of obligations, and prefer infringements of commonly shared norms to be censured.

Our use of the term *strategy* derives from game theory. Basically, in game theory, a strategy for player *P* is a function *f* (in the mathematical sense of the word 'function') that is defined on the set of all possible situations in the game in which it is *P's* turn to make a move. For each such situation *s* the function selects a move *f(s)* for *P*. The function may also for each *s* select a set of one or more moves for *P*, in which case we speak of a *partial* strategy (Walton and Krabbe 1995). The choice of a strategy determines how a player is going to move in each situation throughout the game and the choices of strategies by all players together determine the outcome of the game. Clearly, even if a player has chosen a strategy, it will generally not be possible to deduce this strategy from the player's displayed behavior because a strategy also includes the moves the player will play in not yet actualized but still possible situations or would have played in situation that failed to be actualized. Yet one may, especially when the game is repeated, obtain sufficient evidence to make a reasonable guess at characteristic features of the underlying strategy of one's opponent.

A public controversy lacks the precise definitions for "situation" and "move" that make the game-theoretical definition of "strategy" possible. Therefore this definition of strategy cannot be directly applied. We think, however, that public controversies are close enough to games to use the concept of strategy analogously and thus profit from the ideas developed in and around game theory.

By a definite type of *strategy employed by a participant of a public controversy*, we mean a recognizable purposeful pattern of the choices of moves of this participant in the various speech events constituting the public controversy, where these choices depend upon the situations (resulting from moves by others) by which the participant is confronted during these speech events. Here, we not only include moves that are actually put forward by the participant, but also ways he would presumably react to possible moves of his opponents. The pattern of choices may consist in perpetual recourse to a particular type of move (as the *Ad baculum* strategy consist in perpetual use of *ad baculum* moves) or to a particular argumentation scheme or theme (Walton 1995, pp. 200-202) or to a particular argumentative pattern (van Eemeren 2015), but that need not always be the case. A strategy can be adhered to for some time and then abandoned. As the controversy develops, a participant may come to change his or her strategy, namely by going from a choice of moves according to one pattern to a choice according to another pattern. Thus it is possible to adapt one's strategy in the light of information about the opponent's strategy.[3]

Strategies differ in the extent to which they are oriented towards resolutions and compromises or, as we shall say, the extent to which they are *cooperative.* Opposed to strategies that are to a large extent cooperative stand those that are to a large extent *obstructive* and hinder

[3] In his research about controversies, Dascal (2008) uses the term "strategy" in a way that is kindred to ours, when discussing "dichotomizing" and "de-dichotomizing" strategies. The pragma-dialectical use of the term "strategic maneuvering," however, does in some respects differ from our use of the term "strategy." Not only does the first term refer to argumentative discussion and the second to public controversies (that may also contain other types of discussion, such as informative or information-seeking discussions) but, more importantly, the first refers to balancing two different goals of the arguer and the second to the selection of moves in order to react to moves by another party. Following a strategy in our sense certainly does not exclude strategic maneuvering in the pragma-dialectical sense: maneuvering in order to diminish the tension between resolving a difference of opinion on the merit and resolving it in one's own favor. Part of the motivation for adopting a particular strategy (in our sense) could even be found in the need for strategic maneuvering in the separate argumentative discussions that are expected to occur as the controversy develops (van Eemeren and Houtlosser 2002).

the achievement of a resolution or compromise. In between are strategies that are only to a certain extent oriented towards resolutions or compromises.[4]

How does one recognize a (to a large extent) cooperative strategy? Looking for characteristics one may consider the norms that are stipulated in extant models of dialogue for argumentation or negotiation.[5] But since, in the case of a public controversy, one has to deal with strategies that refer to a complex of many dialogues of different kinds, we expect it to be more convenient to evaluate strategies globally as *fair* or *unfair,* that is: as more or less *balanced*, *transparent,* and *tolerant*. A more precise explanation of the meaning of these everyday terms will be given in Section 4, though even there we will not define these concepts, but only illustrate them by examples, which hopefully will suffice to make clear how we intend these terms to be understood. Our justification for these general criteria of evaluation, not tied to any specific genre or type of dialogue, lies in the ideal of surmounting the controversy through a common argumentative search for resolutions or compromises. Here we assume that fairness is a necessary, but likely not a sufficient, condition for a strategy to count as to a large extent cooperative, and hence as being oriented towards resolutions and compromises.

Further, we distinguish kinds of (intentional or unintentional) effects of strategies. Some strategies are *constructively effective*: they are found to increase the degree of cooperation within the public controversy; others are *destructively effective* and decrease the degree of cooperation. It will surprise no one when a cooperative strategy increases or an obstructive one decreases the degree of cooperation. Sometimes, however, one meets with the inverse effect: a cooperative strategy that decreases the degree of cooperation (for instance, when one tries to offer reasonable arguments that are, unfortunately, seen as a display of insensitivity) or an obstructive strategy that increases it (for instance, when one gives tit for tat and makes the other restrain himself and yield to reason). We shall take up these issues in Section 5.

3. Strategies in the controversy about natural gas and induced earthquakes in Groningen

In this section we shall present a number of examples of types of strategy used in the public controversy about the extraction of natural gas and earthquakes in the province of Groningen. First, we provide some background information about the controversy; next we present a list of types of strategy with examples.

Earthquakes in the provinces of Groningen and Drenthe occur since 1986 (Wikipedia, 2014). They are caused by the extraction of natural gas, especially the extraction from the Groningen gas field located near the village of Slochteren. Earthquakes induced by mining occur

[4] Cooperation is often opposed to competition. But the two can very well go together. This may be seen to be the case in discussions with a dialectical division of labor (questioner opposed to answerer or proponent/protagonist opposed to opponent/antagonist) and also in "strategic maneuvering." See also Deutsch (2014, pp. 9-11) about "constructive and destructive competition."

[5] We are thinking of systems of precisely formulated norms of dialogue. For argumentation, we have in mind the rules of the model for *critical discussion* developed in pragma-dialectics (van Eemeren and Grootendorst 2004) and also the rules for *permissive persuasion dialogue* (Walton and Krabbe 1995). For negotiation, we have in mind the negotiation protocols developed in computational argumentation theory. Amgoud and Prade (2006), for instance, proposed a protocol according to which two agents can reach an agreement by means of arguments, where threats and rewards count as arguments of a special type. Van Veenen and Prakken (2006) present a negotiation protocol that enables players to use argumentation to find out whether one of them acted rightly or wrongly in rejecting a particular offer. In such a case, a persuasion dialogue may, we think, be looked upon as a dialogue embedded in a negotiation dialogue.

also in other regions of the Netherlands but not as often and as forcefully as in Groningen. The Groningen situation was, in 2013, investigated by the "Commission Sustainable Future Northeastern Groningen" (Meijer Commission). They wrote:[6]

> "For many Dutchmen, earthquakes are something from far afield. In northeastern Groningen, earthquakes are a part of daily life. More than hundred times a year a quake occurs. Mostly light: with a force of less than 2 on the Richter scale, sometimes with a force between 2 and 3, and in only a few cases higher. But ever since the earthquake hitting the village of Huizinge (municipality of Loppersum), in the summer of 2012, with a force of 3.6 on the Richter scale, inhabitants must take into account the possibility that more and heavier earthquakes will occur. A force of 4.5 up to 5 is not excluded. Consequently, northeastern Groningen faces a new reality." (Meijer Commission 2013, p. 8)

Also since "Huizinge," the public controversy about the extraction of natural gas, the earthquakes, the damage they caused, and other social and economic consequences gained momentum. The main issues in this controversy are: Can the drilling for gas continue, and if so, on what scale; in what way should the populace be compensated; and which procedures are to guarantee that this will be done in a fair way? The controversy consists of a complex polylogue in which many parties with divergent interests are involved, such as the Dutch Oil Company or NAM (*Nederlandse Aardolie Maatschappij*), which is the company that undertakes the drilling for gas; the government of the Kingdom of the Netherlands, which gets money out of the drillings; the local authorities, which depend on support from the populace; the populace itself, which are aiming for safety, social security, and respect; the directly aggrieved inhabitants and firms, who want a generous and lenient treatment of their claims; and also supervisory agencies, contractors, real estate agents, environmental and heritage campaigners, as well as consumers of natural gas. Yet, the contributions we studied made it apparent that, even though there are far more than two parties involved in the controversy, one may depart from two groups of participants when classifying the strategies used in it: (A) those that have an interest in the continuation of the extraction of natural gas; (B) those that do not have such an interest and are instead focusing on generous compensations and a safe environment. Most, but not all, strategies can be characterized as either a typical A-strategy or a typical B-strategy, without excluding that strategies typical for one group may at times also be used by the other group.

For each (type of) strategy, there is a corresponding (type of) *blaming strategy* based upon blaming the other for (mis)using the first (type of) strategy.[7] For the strategy of "Misleading" listed below, for instance, the corresponding blaming strategy is to systematically blame the other for trying to mislead one. In our list of strategies that are being used in the public controversy about gas extraction and earthquakes, these blaming strategies are not separately mentioned. For each item in the list, the examples we present may illustrate the strategy itself or the corresponding blaming strategy; in both cases the aim is to clarify the first strategy.

In assembling the list, we have been guided by newspaper reports and a number of other sources (from the period 2012 - 2015) that will strike one as exemplifying fair or unfair behavior. For reasons of space, the examples we selected had to consist of fairly brief passages in which

[6] Quotations in this paper from Dutch sources were translated by the authors.

[7] For ease of expression, we shall from now on mostly just write "strategy" even when we intend to refer to types of strategy.

only a few discussion moves are represented. One should, however, bear in mind that we are not so much concerned with those discussion moves for their own sake (with whether they should count as fallacies or flaws in the context in which they occur) but with the pattern of choices of moves, i.e. the strategy, to which they characteristically belong.

Let us first consider two types of strategy that are used in the A-camp as well as in the B-camp.

(1) *Misleading*. By telling falsehoods or by keeping relevant information under one's hat, one leads another party up the garden path. The example illustrates the corresponding blaming strategy.

> **Example 1.** *Sticking plasters*
> "[...] the outrage reached a temporary climax when a research report of the Research Council for Safety revealed this month that, over the many years that natural gas had been extracted, the safety of the people in Groningen had been systematically ignored.
>
> Lambert de Bont, member of the committee of the Groningen Ground Movement,[8] concludes that this Ministerial order about the gas [stipulating the amount extracted to be somewhat reduced and houses in Groningen to be reinforced] is 'misleading' [...]. They are still pulling our leg. The budget had to be fixed; our safety is a subordinate matter. And in the meantime the Minister is merely applying sticking plasters by issuing reinforcement measures." (Luyendijk 2015)

(2) *Spinning*. Media are approached or avoided, as one sees fit, and when making public statements, the matters at issue are cleverly formulated and framed to shed a favorable light on one's position and avoid inconvenient criticism.

> **Example 2**. *Vestibule*
> After a working visit to Groningen, MP René Leegte (Liberal) had a telephone conversation with his assistant. This conversation took place in a train on a crowded vestibule. Campaigner Rolf Schuttenhelm, who was among the crowd, put details of the conversation on Twitter. According to him, it was "to be appreciated that René Leegte returning from Groningen traveled by train" but "not very smart how he made a telephone call in public and explained how you may fob off Groningen folks." Thus every one could hear Leegte saying that during the working visit that day he had tried and avoided the media:
>
> "Today I avoided the media as much as possible."
>
> According to Schuttenhelm, Leegte also divulged that inconvenient questions from the media about the continuation of the extraction of natural gas might be adroitly parried by pointing out a *local* reduction, ordered by Minister Kamp,[9] of the quantity of gas to be extracted. Schuttenhelm:

[8] An action group (*Groninger Bodem Beweging*).
[9] Henk Kamp, Minister for Economic Affairs (Liberal).

> "And then, publicly, how you may always say 'that Kamp reduced the extraction at Loppersum by 80%'" (RTV Noord 2015)

Let us now consider a number of A-strategies. Most of them can be wholly or partially characterized as *stonewalling* strategies (see Gabbay and Woods 2001a, 2001b). A stonewalling strategy focuses on yielding as little as possible to other parties, whether they are right or wrong. Gabbay and Woods (2001a, 2001b) made logical models for various kinds of stonewalling dialogues. As examples they offered such exchanges as a police interrogation of a suspect who is avoiding sharing any information – or even hardly answering at all; cross-examinations in court; and an obstinate officer at the complaints desk of a department store. The following stonewalling strategies occur in the controversy about gas extractions and earthquakes:

(3) *Trivialization.* Depicting problems or drawbacks as slight or insignificant. For instance, the quakes are described as "so light as not to be felt by anyone."

> **Example 3.** *Impalpable*
> "[...] In the northern Netherlands, light earthquakes have been observed since 1986. Experts link them to the extraction of natural gas. [...] Most earthquakes are so light as not to be felt by anyone.
>
> But earthquakes heavier than 1.8 on the Richter scale are usually observable at the earth's surface. [...]
>
> According to the KNMI,[10] the light earthquakes caused by extraction of natural gas can have a force of maximally 3.9 on the Richter scale. The risk of damage with these light quakes is generally slight. If there is damage done, it will usually be minor (no structural damage to buildings)." (NAM 2012)

Trivialization is a strategy that easily concurs with what one "anyhow was inclined to think":

> **Example 4.** *Fairground attraction*
> "Nijpels: 'I live in the West[11] and it is terribly difficult to make people understand what they actually are, these earthquakes. They think that such things occur only in Asia. In our country it cannot be that bad, can it? Vibrations make them think of a kind of fairground attraction, whereas the matter is deadly serious.'" (van Dalen 2013)

Of course, this strategy is denounced by the corresponding blaming strategy:

> **Example 5.** *No answer*
> "According to the Provincial Council, the NAM grossly underestimated the number of quakes, their force, and all the misery that ensued. Provincial Council member Bas Krajenbrink (Christian-Democrats) deplores that the NAM is exclusively focused on damage to houses. 'On matters of immaterial damage you simply don't answer.' Members of the Provincial Council called the narrative of the NAM a businesslike and shameful talk." (de Veer 2013a)

[10] Koninklijk Nederlands Meteorologisch Instituut [Royal Dutch Meteorological Institute].
[11] The western part of the Netherlands, including Amsterdam and Rotterdam.

(4*) Fobbing off.* When using this strategy the other is fobbed off with fine talk and left none the wiser; no notice is taken of the real problems. Thus, in Example 6, former NAM managing director van de Leemput answers a question about the safety of the region as if it pertained to the safety within the company.

> **Example 6.** *Safety has many sides*
> "But you didn't manage to increase safety.
> A look of amazement: 'In what way not?'
> There were more and heavier earthquakes. And they are caused by gas extraction.
> 'Oh, that's what you mean. Safety here has many sides. First of all our employees. They had considerably fewer accidents. Also the safety of our own installations and the reliability of our systems have been improved a lot. The whole company may be proud of that.'" (Luyendijk 2014)

(5) *Pushmi-pullyu.* Following this strategy one will once in a while give in a bit to the other's wishes just to take back twice as much later. A stonewalling strategy that is typically applicable when a damage claim needs to be settled.

> **Example 7.** *Horse-trading*
> "Occupant Annemarie de Haan frankly admits that the cottage could do with a thorough facelift. But that is no reason to accept that the NAM is only willing to foot the bill for a few cracks in the walls, whereas the whole house has been dislocated. 'Since the earthquake of August 16, last year, the backdoor won't shut,' she relates. 'I reported the damage to the NAM and they first arrived at a compensation of 3500 euro. Next the compensation was even reduced to 1300 euro! When I protested against that, the amount was again raised to 2250. It's simply horse-trading.'" (Sevink 2013)

(6) *Belittlement.* A strategy consisting of not taking the other seriously at all. Belittlement is also part of many other strategies.

> **Example 8.** *Blind spot*
> "Ever since the quake of Huizinge on August 16, last year, a quarter of the Groningen population – 150.000 in the earthquake zone – has the feeling of being in a blind spot. Not heard, not consulted about anything, angry, scared, and frustrated. And time and again the same reproach; as an inhabitant of Stedum said: 'We are not taken seriously.'" (Blanken 2013b)

(7) *Shelving*. In order to avoid an unfavorable outcome of the public controversy, one tries and shelves matters, postponing any possible outcome.

> **Example 9.** *More research*
> Schuttenhelm (see Example 2) thought to catch a rare glimpse of this choice of strategy by the liberal MP Leegte, who asked for more research where plenty of research is available. RTV Noord, a local broadcaster, announces that, according to Schuttenhelm, Leegte said: "We stick to the line that the connection between gas extraction and earthquakes needs to be researched." (RTV Noord 2015).

Example 10. *Sums*
"Last year the NAM promised to survey the safety risks for the whole region of Groningen where gas is extracted. But those sums haven't been published yet. [...] tomorrow Agnes Mulder (Christian Democrats) will ask the managing director of the NAM why that analysis is so much delayed. The Christian-Democratic MP: 'I asked for it in October. This is not to the credit of the NAM.'" (Luyendijk 2015)

Not all A-strategies are stonewalling strategies. The next two strategies may not display any stonewalling:

(8) *Rationalization.* A rationalizing strategy uses rational arguments and analyses.[12] For instance in an argument weighing pros and cons:

Example 11. *Hospitals*
" [...] managing director van de Leemput says that the NAM is indeed concerned about the environment. 'But one has to weigh up pros and cons. We must take into account the impact of natural gas extraction on society. On the other hand, there is also the economic value. For instance, the money that we earn through the gas also serves to build hospitals.'" (van Sluis 2012)

However, a rational approach often (rightly or wrongly) leads to a reproach of only presenting a frigid analysis that does not go to the heart of the matter.

Example 12. *Frigid analysis*
"The eleven studies ordered by Minister Kamp to investigate the risk of earthquakes in Groningen are meant to allow a cost-benefit analysis to be made. To the thousands of inhabitants of the Hoogeland [north Groningen], who filed claims for damages with the NAM and are very worried, such an analysis may come across as frigid and cynical. It is not easy to express safety in euros and make calculations that must comprise the price of a human life. Yet, the government often does so, for instance to determine the appropriate height of a sea dyke and the costs thereof." (Blanken, 2013a)

Example 13. *Insensitive*
"Jansen: 'Because they don't take an interest in people. They communicate clumsily, woodenly, yeah. It's all so insensitive. Because they are techies. Because these are commercial firms. That's OK, for a part. But there's no feeling, no sharing. [...]'" (Blanken 2013c)

(9) *Conciliation.* This strategy is used to convince the others, or to make them believe, that one is prepared to cooperate to find a resolution or a compromise. Thus, conciliation is a strategy by which you encourage the employment of fair strategies (and is thereby itself a higher order strategy, see van Eemeren 2010: 35). The corresponding blaming strategy amounts to a charge of hypocrisy or sycophancy.

[12] The term "rationalization" is not being used here in a pejorative sense.

Example 14. *Good neighbors*
"But what particularly unsettles the NAM is the present day image of the oil company in the minds of the population. No longer one of that friendly neighbor. But sometimes as an evil going against them. 'We cannot avert it. But the present day image of us in the minds of the population is no longer the image we want them to have of us. Public support is important for us. If there is no public support it is not really possible to extract natural gas,' van de Leemput says.
[...]
The criticism keeps the managing director of the NAM, van de Leemput, occupied, so he avows. On the other hand , he is convinced that 'his' NAM is generous for its neighbors. But, obviously, it is not experienced that way. 'It is really a matter of concern. We intend to make changes. We are going to arrange that inhabitants can themselves call in a second assessor. At our costs. We just want to be good neighbors.'" (van Sluis 2012)

Example 15. *Bad neighbors*
"The Labor Party is fed up with this way of communicating. 'They know about technology, but the NAM has no idea what people feel,' so Bert Dieters, member of the Provincial Council, says. Nelleke de Graaf (democrat) reacted emotionally. 'You want to be a nice neighbor, but you didn't start as a good neighbor.' Nienke Homan (green leftist) called the performance a flop. Nico Bakker (liberal) couldn't bear to hear it anymore and left the room early." (de Veer 2013a)

Let us next consider some B-strategies. Many of them contain emotional reactions.

(10) *Ad baculum.* The strategy *Ad baculum* frequently makes use of fallacies of the same name or in any case of threats. Gabbay and Woods (2001a, 2001b) speak in this connection of *threat-games* or *threat-strategies.*

Example 16. *Blowing one's top*
"At a meeting with the NAM, a man who had himself paid for suffered damages and will not get his costs reimbursed blew his top. Those present hardly called him to order. He felt helpless and said he couldn't answer for his actions 'when I get them in front of the car.'" (de Veer 2013b)

(11) *Daddy-gets-angry.* When mummy threatens that daddy is getting angry, we are dealing with a special kind of *Ad baculum* move or strategy.

Example 17. *They won't swallow it*
"The NAM would be well advised to dispel that anger, so the members of the Groningen Ground Movement[13] indicate. They don't want themselves to incite violence. Not at all, even. 'But if the NAM continues to ignore the dissatisfaction and the problems and to treat the Groningers this way, then they won't swallow that much longer. Groningers are sober-minded, but there will be a point they have had enough. Installations for extraction of natural gas are indefensible. Next, they will be destroyed or set on fire. You don't want

[13] See Note 8.

that.'" (van Sluis 2012)

(12) *Ad misericordiam.* The strategy *Ad misericordiam* frequently makes use of fallacies of the same name, or in any case of appeals to a kind of sympathy.

> **Example 18.** *Crouched in a corner*
> "The Groningen Ground Movement published short films featuring inhabitants, among them one with a girl crouched in a corner in fear for an earthquake. Wigboldus: 'You get scared. After each quake, people walk around their houses and sit in the crawl space. Did that crack expand? Are there new ones? It's to drive one crazy. It may become an obsession.'" (de Veer 2013b)

(13) *Quid pro quo.* A strategy according to which one may make concessions, but not without getting something in return.

> **Example 19.** *Realistic*
> "The Groningen Ground Movement wants the NAM to improve their procedure for settling damage claims. To make it more transparent. And equal for every one. But the Movement also knows that there is not much chance that Minister Kamp will forgo billions of revenue from the natural gas exploitation. 'As to that, you got to be realistic. But I think the government ought to offer some compensation. This region is confronted by many problems, social, economical, and psychological. Take some action. This should still be a region that attracts firms, that has a future.'" (Interview with Janssen, chairman of the Groningen Ground Movement, Blanken 2013c)

(14) *Asking too much.* A strategy of stiff demands. Often motivated by the idea that even if those demands are unfeasible, room will be created for obtaining concessions.

> **Example 20.** *One billion*
> When Max van den Berg,[14] at the start of 2013, asked for 1 billion euro as a compensation for direct or indirect damage inflicted by earthquakes, this was, at the time, still regarded as an outrageous amount.
>
> " [...] the Meijer Committee indeed succeeded in calculating how much, in the next 20 years, the government and the province ought to invest: 1 billion euro.
>
> Governor Max van den Berg must have smiled as he read that. Disregarding a handful of change, this is exactly the amount he asked for early this year – but then it was called 'compensation' and still had the sound of begging." (Blanken 2013b)

Most of the listed strategies have a highly obstructive character: They are focused on what is rightly or wrongly supposed to be one's self-interest and not primarily on the attainment of a reasonable resolution or a fair compromise. Three types of strategy offer possible exceptions: Conciliation, Rationalization, and *Quid pro quo*. Conciliation is aiming at the realization of the necessary initial conditions for finding resolutions or compromises. Rationalization, as we use the word, is aimed at a resolution of the conflict by means of argumentation, whereas *Quid pro quo* is

[14] Royal Commissioner (Governor) for the province of Groningen.

aimed at its settlement by means of a compromise.[15] These strategies, then, are apparently basically cooperative.[16] Yet, cooperation may, in the case of Rationalization, be wholly or partially spoiled by intentional or unintentional fallacies and also by a disregard of emotional aspects. In the case of *Quid pro quo* cooperation may, for instance, be spoiled by stiff demands. Conversely, even basically obstructive strategies need not lack all kinds of cooperation. It is, therefore, a simplification to classify strategies or types of strategies plainly as "obstructive" or "cooperative."

4. Fair and unfair strategies

Now that we have found these strategies, the question arises how they may be evaluated. Of course, in principle, a strategy may be analyzed in terms of series of individual dialogue moves, whose *legitimacy* may be determined by checking whether they accord with the rules of relevant normative models of dialogue (say, models of persuasion dialogue or negotiation dialogue) and are in that sense oriented towards reasonable resolutions and fair compromises, i. e. cooperative. However, as we noted, such an approach is unfeasible in the case of some complex and unruly public controversies. We, therefore, propose to supplement extant normative models by a global approach to behavior in public controversies and to evaluate strategies in terms of *fairness.* As will become clear, the concept of fairness of strategies here presented will give us, not a sufficient, but a necessary condition for strategies to be cooperative. Yet fairness will be an indicator of the degree of cooperation in a public controversy.

There is, as we noted, a second reason for such a global approach. Many considerations exchanged by the participants fulfill a function both in a persuasion dialogue and in a negotiation dialogue. If you appeal to safety, this may express an argument supporting the standpoint that the extraction of natural gas needs to be reduced. But if your role is that of a local administrator, it may also express with what demands you will be entering negotiations with the NAM. If you point out the advantages of gas extraction for the Netherlands then you argue in favor of continuation of the gas extraction but you also try to make clear that this interest needs to be weighed up with others in coming rounds of negotiation. Thus one deploys the same considerations in more than one way.[17]

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[15] Our use of the terms "resolution" and "settlement" follows that of van Eemeren and Grootendorst (2004, p. 58). Cooperation can be oriented towards resolutions as well as towards settlements.

[16] The distinction between obstructive and cooperative strategies is akin to the distinction Dascal draws between on the one hand a "debate," in which the participants are merely focused on a victory over the opponent (2008, p. 43), and on the other hand a "discussion," which he characterizes as focused on truth, as well as "controversy" (p. 43), which he characterizes as aiming at "rational persuasion" (p. 46).

[17] Also, the distinction between the goal of a persuasion dialogue (resolution of a difference of opinion) and that of a negotiation dialogue (a compromise) is not easily drawn in the case of public controversies. Suppose, for instance, that there is a difference of opinion about the standpoint: *Policy P is to be effected,* and that in a correctly executed negotiation dialogue a compromise is reached that is accepted by all parties: *Instead of policy P, policy P' is to be effected*. In that case, the original difference of opinion would formally not have been resolved but only settled (see Note 15). Yet, such a result would much resemble a resolution (and would be said to constitute one in common parlance); for, now that the compromise has been reached, parties have come to agree about something, namely that not *P* but *P'* is to be effected. However, this agreement is partly based on the will to reach a compromise that is acceptable for all parties concerned. Such a consideration is absent in a pure persuasion dialogue on policies, where each party tries to convince the other that a particular policy is per se the best one and not merely the best one that is feasible in the given situation of mutual conflict (see also van Laar and Krabbe 2016c).

In this paper, therefore, we choose to characterize and evaluate strategies from a global point of view, without opting for a reconstruction from either the point of view of persuasion dialogue or rather that of a negotiation dialogue. This global point of view we find in the everyday notion of "fairness." As an everyday notion, we may expect the term "fairness" to be, basically, understood. Yet, since the term is used in multifarious contexts, we must give some more precise indication of how we use the term when we apply it to strategies in public controversies. We shall not attempt to define the concept but instead shall, by going through some simple examples, explore three features one would expect a fair strategy to display, namely that it would be *balanced*, *transparent*, and *tolerant.* For the purposes of the present paper we shall simply speak of a "fair strategy" whenever a strategy comes up to these expectations.

4.1. Three aspects of fairness

(1) *Fair shares*

When two children play together and one of them has been given a bag of sweets for the two of them, the other may point out that it would be only fair to divide up the sweets. In such a case, "fair" stands for the idea of fair shares.[18] To cooperate well when playing together one should fairly share things; therefore, if you are unfair in this respect, the interaction will become more obstructive.

In a public controversy, too, it may happen that one party is pulling the strings; for instance, when it has a final say on some matters (such as determining the amount of damages to be awarded) or when it has access to the media or other means to reach an audience (such as being interviewed by the local press). It would then count as fair if this party does not take all, but leaves some room for the others; for instance, by not making any decisions without taking the preferences of the opponents into account or by at least seriously reporting the considerations of the opponents – or giving the opponents themselves an opportunity to report their considerations – and subsequently including these considerations in the decision making process. We shall call a strategy in a public controversy *balanced* if it sufficiently takes into account the considerations of the other parties, whether the situation is one of explicit dialogue or one of monologue (implicit dialogue). When a strategy implies that a party during a certain phase of the controversy is to enumerate the arguments for his own position, ignoring for a while any counter-considerations, or to list his own interests without immediate concern for those of others, this will not straightforwardly imply that the strategy as a whole is *unbalanced.* After all, a temporary emphasis on one side of the issue may be necessary to bring this side to the fore and thus be instrumental in finding a collectively supported resolution or compromise. In order to be fair, however, a strategy as a whole must be balanced.

(2) *No cheating*

When A and B are playing together and A knows that his parents left some sweets in a tin for them to take, it would count as unfair if A "forgot" to mention that there are sweets in the tin, in order to take these later for himself to eat at ease. It would also count as unfair if he sneakily first ate half of the sweets and only then announced that there were sweets in the tin and proceeded to share them on a fifty-fifty basis. Here "fair" stands for refraining from lying or misleading, or – positively formulated – for acting transparently. The issue of fair shares plays a role in the

[18] The idea of fair shares is not so much that each one gets as much as another but rather that everyone gets his due.

background because usually one lies or misleads in order to gain some improper advantage. Cooperation requires transparency of action; therefore, if you act opaquely, the situation will become more tinged by obstructivity.

In a public controversy, too, a party always has certain aims, based on its private preferences and the information at its disposal. It will count as fair if a party practices transparency about such matters. When, for instance, a party exclusively possesses certain data (for instance through research reports), it will be fair if this party forgoes exploiting the ignorance of its opponents and shares the relevant data. It is also fair to be frank about one's aims in a controversy and one's preferences. Therefore, whenever a party in a negotiation rejects an offer by another party just to get its own preferred offer accepted, it may be unfair to present this rejection as being based purely on moral grounds instead of being based on one's private preferences. We shall call a strategy in dialogue *transparent* if it is sufficiently marked by frankness about itself, that is, about what the party using the strategy is aiming at and about the means the party wants to apply to achieve these aims. In order to be fair, a strategy must be transparent.[19]

(3) *No coercion*

When A gets the tin with sweets from the larder, it would count as unfair if B pressured him rudely to give the sweets away, for instance, by snatching them forcefully or by threatening with violence or other sanctions. It would be an act of intolerance if B forced him to yield all the sweets ("give me all, or I hit you"), but it would also be a display of intolerance if B forced A to correct what B perceives as an unfair state of affairs ("give me my half or I hit you"). Again, the issue of fair shares has a role to play, for a bully heads for his goal without allowing the opponent sufficient room to object, so that it will be insufficiently guaranteed that the interaction will lead to a division into fair shares that may stand the test of criticism. Sound cooperation presupposes that parties refrain from coercion and rude means of putting pressure on one another: therefore, if you act intolerantly, the interaction will become more obstructive.

In a public controversy, too, a party may have means of power at its disposal and use them strategically. Physical coercion and threats may create good reasons for the victim to select or forgo a certain option but are unfair from the perspective of resolving or settling the original conflict in a reasonable way. We shall call a strategy in a dialogue *tolerant* if it refrains from using means of coercion and thus leaves enough freedom for an opponent to determine and elaborate her position in the controversy. In order to be fair, a strategy must be tolerant.[20]

4.2. Fairness and unfairness in strategies

We now discuss the most striking features of the strategies described in Section 3 in terms of balance, transparency, and tolerance.

(1) *Misleading*

[19] Johnson (2000, pp. 163-164) explains that argumentation must not only be reasonable, but also appear to be reasonable, which according to him explains why we should seriously take notice of criticism, also when we do not ourselves endorse the criticism. Hence his ideal of *manifest rationality* seems to imply that the strategy one follows ought to be transparent.

[20] As Christopher Tindale pointed out to us, "tolerant" in this sense could be replaced by "non-coercive," especially since "tolerant" has a number of different meanings. We preferred, however, to use a positive term.

When you mislead another party by providing incorrect or incomplete information, the effect may be that relevant information fails to be taken into account. Therefore Misleading, besides obviously being an opaque (i.e. non-transparent) strategy, also counts as an unbalanced strategy. In Example 1 (*Sticking plasters*), Lambert de Bont's criticism seems to amount to the reproach that, in order to be able to continue the extraction of natural gas, incomplete or even incorrect information has been provided about the consequences for the safety of the inhabitants: The measures taken for the reinforcement of houses contribute to a semblance of safety but no more. The fair counterpart of Misleading is a strategy in which one leaves out falsehoods and half-truths and informs the other parties in plain terms.

(2) *Spinning*

It is quite possible to apply a strategy of spinning in a transparent, tolerant, and even balanced way, both when approaching or avoiding journalists and when giving a clever presentation of one's own position or of that of one's opponent. However, as may be seen from Example 2 (*Vestibule*), Spinning can also easily degenerate into an opaque and unbalanced, and therefore unfair, rendering of the situation as one keeps harping on data that are in favor of one's own position in order to screen countervailing considerations. In such situations Spinning "derails" into an unfair strategy: manipulation of the media and thereby of the public controversy.

(3) *Trivialization*

When you trivialize the complaints and worries of your opponent, you are attaching little importance to considerations that are in favor of her position. Trivialization is an outstanding example of an unbalanced strategy that may be used by authorities to smooth over the detrimental effects of their policies vis-à-vis those who are affected but whose opinions carry little weight. In the examples, there is reason to suppose that the NAM trivializes the worries and problems of the inhabitants of the earthquake zone by providing only such information as makes it appear that the earthquakes are not much of a problem (Example 3 *Impalpable*), thus failing to do justice to the gravity of the situation of the inhabitants (Example 4 *Fairground attraction*), and turning a blind eye to non-material damage (Example 5 *No answer*). Even though it would, in principle, be possible to apply the strategy in a transparent way, Trivialization, being unbalanced, will all the same be an unfair strategy. Trivialization is an unfair counterpart of a strategy in which a party reduces the interests and objections of another party to their proper proportions.

(4) *Fobbing off*

When fobbing someone off, you provide him with replies that will not help him and do not constitute a real answer. It is an unbalanced strategy because balance in a controversy requires that a party, if possible, answer the questions of another party. Since, when fobbing someone off, you feign to really answer the questions, the strategy is inherently opaque. In Example 6 (*Safety has many sides*) the answerer wrongfully pretends to answer a question. Fobbing off is an unfair counterpart of a strategy in which a party does answer the questions of an opponent, be it by giving an answer that may not please the latter.

(5) *Pushmi-pullyu*

By messing your opponent about, pulling him in opposing directions, and ripping him off, you show disdain for his interests. As easily as you seem prepared to concede him something, so lightly do you take it back. It does not go against the character of this strategy to apply it somewhat transparently, with an evident bluntness. Since, by employing the Pushmi-pullyu

strategy, you show yourself not to be concerned about the interests of your opponents, you may be putting pressure on the latter. It is, therefore, an intolerant strategy, evincing a lack of respect. Especially in a context of negotiation, as in Example 7 (*Horse-trading*), doing as one pleases indicates a dominant position: apparently, the strongest party need not bother about the position of his opponents in the negotiation. Pushmi-pullyu is an unfair counterpart of a strategy in which a party respects its opponents and deals carefully with opposed interests (be it that, in circumstances, it must be possible to retract one's earlier statements).

(6) *Belittlement*
When you belittle, humiliate, or offend your opponent, you are delivering the message that there is no need for you to take your opponent seriously; not as an interested party, and therefore neither as an interlocutor. Thus the strategy is immediately focused on intolerance and imbalance. When you belittle someone by ignoring him or her, this may moreover display opaqueness (Example 8 *Blind spot*). Applied in a more transparent way, the strategy Belittlement may also aim at making the opponent angry in order that he will get disqualified from discussions for being an excessively emotional party to the controversy. Belittlement is an unfair counterpart of a strategy in which a party takes its opponents seriously.

(7) *Shelving*
When you are shelving things, i.e. when you are postponing the outcome of a public controversy indefinitely, you will perpetuate the *status quo*. In circumstances, this will come about in an opaque, and therefore unfair, manner. Most likely, Example 9 (*More research*) gives us an instance of an opaque strategy. According to appearances, at least, Leegte would be aiming to maintain the present rate of gas extraction but, instead of arguing for this in public, he pretends that yet more research is needed before we may know whether the rate of gas extraction needs really to be scaled down. It seems that Agnes Mulder blames the NAM for the same kind of unfairness (Example 10 *Sums*). Shelving is, in these situations, an unfair strategy. The fair counterpart of Shelving is a strategy in which one tries to postpone the discussion because one sincerely has a need for new data or expert opinion.

(8) *Rationalization*
When you rationalize, you offer pertinent arguments to support your position, possibly even accompanied by a critical examination of counterarguments. Thus understood, Rationalization constitutes a strategy that is pre-eminently oriented towards balance, transparency, and tolerance. Example 11 (*Hospitals*), however, gives us an instance of a strategy that looks like Rationalization but fails to be truly balanced. The point about the hospitals seems just dragged into the argument. Would this example not rather exemplify "rationalization" in a pejorative sense? In the pejorative sense, one rationalizes a view that supports one's own interests by making up some ad hoc justification for it that may have nothing to do with, and even obscures, one's real motivation for taking that view. If this is the case in Example 11, the strategy of Rationalization derails because the appearance of pertinent argumentation is obscuring the fact that the defended view did not originate in a pertinent weighing of pros and cons. According to Example 12 (*Frigid analysis*) inhabitants may get the impression that a cost-benefit analysis takes into account only economic considerations and that, consequently, the non-economic values of safety and human life have not been given their due. So, in this case as well, the strategy (of the government) resembles Rationalization, but without displaying balance and transparency; similarly in Example 13 (*Insensitive*), in which Jansen blames the "rationalizing" party for a lack

of empathy and for failing communication. As we use the term, however, Rationalization is the fair counterpart of a strategy of rationalization in the pejorative sense.

(9) *Conciliation*
When you apply a strategy of Conciliation, you try and inspire your opponent with confidence. The strategy aims at setting up conditions that make your opponent prepared to trust your assertions and commitments, without an overdose of skepticism (Govier 1997). Conciliation, then, is a strategy by which you may encourage the implementation of fair strategies (and therefore is itself to be considered as a higher order strategy, see van Eemeren 2010, p. 35). Example 14 (*Good neighbors*) shows how the NAM tries to restore confidence by proclaiming their benevolent intentions. Conciliation is the fair counterpart of a sycophantic strategy by which one pretends to engage in promoting trust but is actually after a strategic plus-point (Example 15 *Bad neighbors*).

(10) *Ad baculum*
When you are following the strategy *Ad baculum,* you are putting pressure on your opponents by threatening with sanctions if they won't give in. It is an intolerant strategy of discussion because it does not grant the opponents their freedom to elaborate their position. It is hard to argue with the speaker in Example 16 (*Blowing one's top*). *Ad baculum,* as a strategy, is an unfair counterpart of a strategy in which you warn for unfavorable consequences of a choice for a certain course of action in cases where those consequences do not depend on choices made by you.

(11) *Daddy-gets-angry*
When you apply the strategy Daddy-gets-angry, you are applying an *Ad baculum*-strategy while disguising the threat by pretending that it is not you who is to apply the sanction. In Example 17 (*They won't swallow it*) the speaker is surprisingly clever at exploiting the anger of the inhabitants so that we may suspect him to apply this strategy. Daddy-gets-angry is a special kind of *Ad baculum* and has the same fair counterpart as *Ad baculum.*

(12) *Ad misericordiam*
When you apply the strategy *Ad misericordiam* and expect that the opponent will be fooled and without further reflection succumb to the emotions you evoke, your strategy will be very opaque. When you expect your opponent to recognize the appeal to pity as your strategy, then you will be trying to apply moral blackmail; your strategy will be intolerant. Example 18 (*Crouched in a corner*) could be an example of an opaque use of *Ad misericordiam*. This strategy is, just as *Ad baculum,* an unfair counterpart of a strategy by which you warn for unfavorable consequences of the choice for a particular course of action.

(13) *Quid pro quo*
When you apply the strategy *Quid pro quo,* you are indeed putting some pressure on your opponent to move and grant a concession, but in the context of negotiation this would be appropriate as a part of the game (just as putting "pressure" on someone by means of an exceedingly convincing argument is part and parcel of the persuasion dialogue); it is part of what it means to cooperate. Consequently, this strategy does not count as intolerant. Neither is imbalance or opaqueness inherent to *Quid pro quo,* as may be clear from Example 19 (*Realistic*) where Janssen attempts to explicitly formulate different interests and overtly works round toward

a compromise. We therefore consider this strategy to be fair, with as a possible unfair counterpart the strategy of Asking too much to which we now turn.

(14) *Asking too much*
When you are asking too much, you ask for more than you think you are entitled to, while pretending to be sure that you are indeed entitled to what you ask. In Example 20 (*One billion*) the Governor was apparently asking too much. His later smile was caused by the unexpected outcome of a fair calculation, which yielded roughly the same amount. At the time when he asked for one billion euro, the Governor's strategy was an opaque one of bluffing (though in the meantime the amount has been raised to at least two billion). Asking too much is an unfair counterpart of *Quid pro quo.* In practice, it is hard to determine whether someone is applying a fair *Quid pro quo* strategy or an unfair Asking too much strategy

Some of the strategies discussed are fair – at least potentially; most, however, are unfair. All unfair strategies here discussed show more or less directly a kind of imbalance, while some of them clearly suffer also from opaqueness, and others from intolerance. Generally, the use of unfair strategies will let the parties drift apart and dissipate cooperation. For, an unfair strategy undermines trust, and trust is a necessary condition for cooperation. It is, therefore, no surprise that we met with a strategy of Conciliation, which is especially equipped to restore trust. Although unfair strategies are basically obstructive, it is not excluded that in circumstances the application of an unfair strategy would promote cooperation. Maybe parties sometimes behave unfairly "for the benefit of all." In the next section, we look more closely into this matter.

5. Effects of strategies

What kind of strategy would be the best choice for a participant in a public controversy? We assume that it is a matter of importance to all participants that discussions within the context of the controversy lead to results (resolutions or compromises), and therefore that the parties cooperate. The impact of a strategy on the degree of cooperation in discussions depends not only on the extent to which the moves selected by this strategy are oriented towards resolutions or compromises but also on the effect that the use of this strategy has on the choices of others. If, for instance, one party is perpetually using threats, others may proceed to act in a similar way. The impact of the use of a particular strategy on the public controversy as a whole takes, therefore, two different routes: on the one hand through those moves that are themselves part of the strategy (the *immediate* effect), on the other hand through the reactions that the strategy calls forth (the *mediate* effect). The total effect can be that the use of the strategy generally increases the degree of cooperation in the controversy, in which case we say that it has a *constructive* effect (or that the strategy is *constructively effective,* or *constructive,* for short), or that it, on the contrary, generally decreases the degree of cooperation, in which case we say that it has a *destructive* effect (or that the strategy is *destructively effective*, or *destructive*).[21]

The immediate effect of the use of a strategy corresponds to the extent to which the strategy itself is either cooperative or obstructive. But for the mediate effect the reactions of others have to be taken into account. How do other parties react to this strategy? Perhaps the most

[21] We apply the terms "constructive" and "destructive" to strategies. Deutsch (2014, p. 9) applies them to processes for conflict resolution.

natural supposition is that parties, to a greater or lesser extent, copy behavior from one another. Threats provoke threats and reasonable considerations stimulate others to offer themselves some reasonable ideas.[22] When that would always be the case, the mediate effect of a strategy would invariantly be in line with the immediate effect, so that cooperative strategies would automatically be constructively effective, and obstructive strategies destructively effective. We think, however, that there are important exceptions and that mediate effects may sometimes make a cooperative strategy destructive and an obstructive strategy constructive.

Take the basically cooperative strategy of Rationalization as an example. As we noted in Section 3, such an approach may rightly or wrongly elicit the reproach that the other is just offering a "frigid analysis" (see Example 12) that fails to get to the heart of the matter: problems are underrated and thus people are not taken seriously. In case such reproaches are to the point, whereas the rationalizer keeps up the appearance of reasonableness, the strategy will display rationalization in the pejorative sense, the counterpart of the strategy of Rationalization in our sense. In that case, the strategy is not cooperative but a to a large extent obstructive and unfair (unbalanced and opaque). But even when the reproaches are not to the point, and a party is applying the strategy of Rationalization in the regular cooperative way, Rationalization may sometimes come across as an unfair strategy. The mediate effect may be that other parties, getting irritated, proceed as well to employ unfair and obstructive strategies. In that way, a cooperative strategy may in circumstances, through a "reversed" mediate effect, become destructively effective.

Analogously, the cooperative strategy of Conciliation may come across as hypocritical sweet talk (sycophancy) and thus become destructively instead of constructively effective. The strategy *Quid pro quo,* which is also cooperative, may come across as a frivolous attempt to negotiate, for instance as a kind of Asking too much, and thus become less constructively, or even destructively, effective.

Conversely, basically obstructive strategies may display also constructive mediate effects.[23] For, such a strategy may be used, temporarily, as a sanction against an obstructive party. In that way the opponent can be brought to realize that it will, after all, be better to cooperate so that cooperation may be restored. This consideration lets in the possibility that moves that are inadmissible per se, according to the norms for the type of speech event in which they are made, may nevertheless mediately promote the degree of cooperation in the public controversy as a whole. For instance, an infringement of a norm for persuasion dialogues, such as an *ad baculum* fallacy, may open up possibilities for future negotiations or persuasion dialogues that will indeed comply with norms for, respectively, negotiations and persuasion dialogues. Thus it will be possible that a basically obstructive and unfair strategy may, in certain cases, still be evaluated as constructive. A condition here is that the obstructive strategy so used must still be transparent in order to have the desired mediate effect. For, it must be clear to one's opponents

[22] That this is what ordinarily happens is also pointed out in "Deutsch's Crude Law of Social Relations" (Deutsch 2014, p. 12): "The characteristic processes and effects elicited by a given type of social relationship also tend to elicit that type of social relationship, and a typical effect tends to induce the other typical effects of that relationship."

[23] This observation concurs with Jacobs's "interesting, perhaps counter-intuitive, consequence" of "looking at rhetorical strategy within the perspective of normative pragmatics": "*What looks like a fallacy when taken in the abstract or when judged against a typicalized situation may function constructively in the situation of its occurrence*" (Jacobs 2009, p. 63, original emphasis). Jacobs has provided many examples in a number of papers (see Jacobs1999, 2000, 2002). In the case of an obstructive strategy displaying constructive mediate effects by making use of some moves that are fallacious according to norms of reasonableness, we would however not say that the fallacies committed by the party following the strategy merely appear to be fallacies.

for what behavior they are being "castigated" and what choices they should therefore make to avoid further castigation. From the strategies discussed in Section 3, we may expect that the obstructive strategies *Ad baculum* and *Ad misericordiam* would lend themselves for such use. It may go too far to "blow one's top" (Example 16) but in other cases (Examples 17 and 18) these strategies may induce the attacked or addressed parties to abandon, or at least to restrain, their use of unfair strategies such as Trivialization and Belittlement, thus making the public controversy as a whole switch to serious argumentation and negotiation. The strategy of Asking too much can also have such a globally constructive mediate effect. Thus, the demand for one billion euro by Governor Max van den Berg stimulated that serious research into the true social costs got going (Example 20 *One billion*).

6. Choosing one's strategy

That basically obstructive strategies can have a globally constructive effect on the character of a public controversy does not imply that such strategies are simply to be recommended to those who aim at resolutions or compromises. Opting for an obstructive or unfair strategy when others are using cooperative strategies will, generally, yield only short-term benefits because the others will after some time probably also switch to such strategies and thereby join in ruining the process of public controversy as a whole. In this way, one will most likely also fail to achieve one's own aims in the controversy. Therefore, it is generally to be preferred to select a cooperative strategy when it may be presumed that others will do the same.

Yet there is a problem. What is one to do, if others do not select cooperative but obstructive or unfair strategies? Must one let the others do as they please, or pay back in the same coin? The social psychologist Morton Deutsch (2014, pp. 23-27) discusses a number of options varying from attempting to convince others that it would be better indeed to cooperate (an approach that amounts to entering metadiscussions, which will hopefully be carried through in a reasonable way) to several kinds of non-violent action. In light of the preceding section about the effects strategies may have, one may, in our view, add here the option to equally adopt, for a limited period, an obstructive or unfair (unbalanced or intolerant, but still transparent) strategy and by this means try and bring the others into line.[24] This obstructive strategy is to be followed for no more than a limited number of moves after which one is to return to cooperation to avoid ruining the process. Especially, persisting with an *Ad baculum* or other obstructive strategy after other parties have abandoned obstructive strategies has a destructive, instead of a constructive, effect.

This view on the choice of strategy can be compared with the situation of playing an iterated version of the game of *Prisoner's Dilemma,* which has become widely known through the publications of the political scientist Robert Axelrod.[25] Obviously, there are great differences between choosing one's strategy for playing, with the same opponent, an iterated game of *Prisoner's Dilemma* and choosing one's strategy in a public controversy, be it only because for

[24] The way we describe this option makes it appear that one should change one's strategy. It may however be described in a way that changing strategies is unnecessary. One could, for instance adopt a strategy that comprises some *ad baculum* moves, but exclusively for the case that your opponents have acted unreasonably.
[25] Axelrod explains the game on p. 8 of his book (Axelrod 1984).

Prisoner's Dilemma the game and the payoffs are exactly defined. But the similarity is striking enough to be inspired by Axelrod's views.[26]

Axelrod offers advice about how to choose one's strategy effectively when playing an iterated game of *Prisoner's Dilemma.* He summarizes his advice as follows:

A1. Don't be envious.
A2. Don't be the first to defect.
A3. Reciprocate both cooperation and defection.
A4. Don't be too clever. (Axelrod 1984, p. 110)

This advice can be converted and expanded to yield advice about how to choose one's strategy effectively when participating in a public controversy. At the same time, a comparison can be made with advice offered by the social psychologist Morton Deutsch. Deutsch recommends that, whether or no the other party wants to cooperate, one should oneself always be "firm, fair, flexible, and friendly" (Deutsch 2014, p. 27).

1. (See A1 and Deutsch's *be flexible.*) When choosing a strategy in a public controversy, aim at sustainable results (resolutions, compromises) rather than at short-term gains. For, what matters is that the result will be for you as favorable as possible, not whether you gain more or less than another. For that, it is required that you don't cling uncompromisingly to your point of view and that you take the interests of others into account.

2. (See A2 and Deutsch's *be friendly.*[27]) Use as much as possible a cooperative strategy and do not be the first to turn away from cooperation.

3. (See A3 and Deutsch's *be firm.*) If needed, make constructive use of an obstructive strategy to get others that use obstructive strategies to cooperate. Return to cooperation as soon as others do.

4. (See A4 and Deutsch's *be fair*[28]) An obstructive strategy used as explained in the third recommendation need not be fair because it need not be balanced or tolerant. Yet, to be constructive it must be a transparent strategy.

Axelrod's A4 is a special case of the last recommendation. For, by being "too clever" the complexity of your strategy increases so as to lose its transparency.

7. Conclusion

A public controversy comprises numerous speech events exemplifying different types of dialogue (genres of communicative activity). Yet, the contributions of a participant in a public controversy

[26] What we call a "cooperative strategy" may be compared with a *nice rule* in Axelrod. *Nice rules* are strategies in iterated *Prisoner's Dilemma* that never allow you to be the first to defect. Our "obstructive strategies" must then be compared with those rules (strategies) in Axelrod that are not *nice*.
[27] Axelrod could have formulated A2 as "Be nice" (where "nice" carries the meaning explained in the preceding note).
[28] By the term *fair,* Deutsch chiefly refers to one's refraining from using what he calls *dirty tricks,* which corresponds to what we denote as "transparency."

often display a recognizable pattern that can be characterized as a strategy of a certain type. Starting from the public controversy about the induced earthquakes in Groningen, we described fourteen types of strategy. These types of strategy we evaluated in terms of fairness. We have further clarified the notion of fairness by discussing three aspects: balance, transparency, and tolerance. This was a convenient approach because, in this way, we did not have to analyze and evaluate the various contributions from the perspective of norms for determinate types of dialogue and could stay on a global level. Most strategies we discussed were unfair, some were fair. It seemed plausible that fair strategies would normally contribute to the degree of cooperation in a public controversy and that unfair strategies would detract from it but, as we argued, in both cases there are exceptions.

When trying to answer the questions we posed in the introduction, we would have liked to conclude that fairness is always the best policy. But, in view of the exceptional effects of strategies just mentioned, it is sometimes expedient to answer unfairness by unfairness in order to get the opponent to return to fairness and to increase, in this mediate way, the degree of cooperation in the controversy. In order for this *tit-for-tat* like strategy to be effective, your opponent must have no doubt about what constitutes the unfair strategy that occasioned you to inflict the castigation.

For future investigations we would welcome studies of other public controversies to be compared with our findings. Also our explication of "fairness" must be seen as a first shot rather than the final word. The explication could be sharpened, and compared in greater detail with alternative accounts of fairness in conversation; perhaps more features could be added. But in any case some insight into what we call "fair and unfair strategies" is essential for a successful development of a public controversy. Only if such insight is available, is there an option for the parties to go for fair discussion and negotiation as means to achieve resolutions and compromises. Only then, can unfair behavior be denounced. It is, therefore, an important matter of public interest that the knowledge and skills needed for assessing the fairness of strategies be widely spread.

Such knowledge and skills are important for the stronger as well as for the weaker parties in a public controversy. Those in a position of power have often reasons to show fair behavior because power needs support, and support needs approval by critical people. Those in a position of little or no power may have even better reasons to show fair behavior. For, who will most likely be getting the worst of it when it comes to a showdown would be wise to avail herself of the means of reason and to cooperate with other parties towards a reasonable resolution or a fair compromise.

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